

FROM

(THU) 12.18.03 17:42/ST. 17:41/NO. 4862845716 P 1

LEBOEUF,  
LAMB,  
GREENE &  
MACRAE, LLP\*

1875 Connecticut Ave., N.W.  
Suite 1200  
Washington, D.C. 20009-5728  
Tel: (202) 986-8000  
Fax: (202) 986-8102

FAX

TRANSMISSION

TRANSMISSION PROBLEMS: (202) 986-8000

FROM: Elizabeth Stanley	ID#: 4939	DATE: December 18, 2003
TEL: (202) 986-8042	PAGES: 1 of 4	CLIENT/MATTER NO.: 08039-00159


TO:	COMPANY:	FAX NO.:	CONFIRMING TELEPHONE NO.:
Official Central Fax Number	U. S. Patent & Trademark Office	703-872-9306	703-308-4805 (Examiner Evans)

Comments/Message:

Re: U. S. Patent Application Serial No. 09/854,344  
Filing Date: May 11, 2001  
Title: HANDHELD, PORTABLE COLOR MEASURING  
DEVICE WITH DISPLAY  
First named Inventor: Wagner, Gregg  
Art Unit: 2877  
Examiner: F. L. Evans  
Attorney Docket No: 08039-00159

RECEIVED  
CENTRAL FAX CENTER  
DEC 18 2003  
OFFICIAL

Please see attached Affidavit of Robert Stewart under 35 C.F.R. § 1.132 (2 pages) and  
Certificate of Transmission (1 page) for the above-referenced application.

  
Elizabeth Stanley, Esq., Reg. No. 44,438

DC DOC 248621 v1 08039-00159

\*A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

THIS FACSIMILE TRANSMISSION CONTAINS CONFIDENTIAL AND/OR LEGALLY PRIVILEGED INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL(S) NAMED ON THE TRANSMISSION SHEET. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS FACSIMILE TRANSMISSION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE CALL US COLLECT IMMEDIATELY SO THAT WE CAN ARRANGE FOR RETURN OF THE DOCUMENTS TO US AT NO COST TO YOU. THANK YOU!

PAGE 1/4 \* RCVD AT 12/18/2003 5:55:01 PM [Eastern Standard Time] \* SVR:USPTO-EFXXF-1/0 \* DNIS:8729306 \* CSID: \* DURATION (mm-ss):00-58

FROM

(THU) 12.18' 03 17:42/ST. 17:41/NO. 4862845716 P 2

Page 2

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted to the U. S. Patent & Trademark Office (703.872.9306 fax) on the date shown below:

Name: Diane Lino  
Signature: Diane Lino

Date: Dec. 18, 2003

**LIST OF DOCUMENT BEING TRANSMITTED TO THE PATENT OFFICE:**

1. Fax Cover Sheet re 09/854,344
2. (Signed) Affidavit of Robert Stewart
3. Certificate of Transmission

**\*A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS**

THIS FACSIMILE TRANSMISSION CONTAINS CONFIDENTIAL AND/OR LEGALLY PRIVILEGED INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL(S) NAMED ON THE TRANSMISSION SHEET. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS FACSIMILE TRANSMISSION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE CALL US IMMEDIATELY SO THAT WE CAN ARRANGE FOR RETURN OF THE DOCUMENTS TO US AT NO COST TO YOU. THANK YOU.

FROM

(THU) 12.18'03 17:42/ST. 17:41/NO. 4862845716 P 3

Serial No.: 09/854,344

Docket No.: 08039-00159

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED  
CENTRAL FAX CENTER

DEC 18 2003

OFFICIAL

In re Application of :  
WAGNER, Gregg et al. :  
Serial No. 09/854,344 : Group Art Unit: 2877  
Filed: May 11, 2001 : Examiner: Fannie Evans  
For: HANDHELD, PORTABLE COLOR MEASURING DEVICE  
WITH DISPLAY

The Commissioner for Patents  
Washington, D.C. 20231

**AFFIDAVIT OF ROBERT STEWART**  
**UNDER 35 C.F.R. § 1.132**

I, Robert Stewart, a U. S. citizen having a residence address of 1057 Reed Ranch Road, Boulder, CO 80302, hereby declare as follows:

1. I did not contribute to the disclosure in U. S. Patent No. 6,157,454 to Wagner et al. that is the basis of the pending rejected claims in the above-reference patent application.

2. Further, I believe that any invention disclosed but not claimed in the Wagner et al. patent was derived from Gregg Wagner and Gary Emerson, and is thus not an invention "by another" per 35 U.S.C. §102(e).

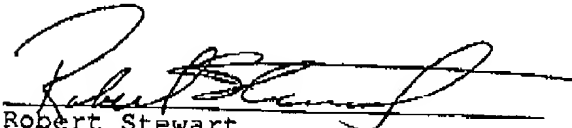
FROM

(THU) 12. 18' 03 17:42/ST. 17:41/NO. 4862845716 P 4

Serial No.: 09/854,344

Docket No.: 08039-00159

3. I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
Robert Stewart

17 DEC 23  
Date

DC DOC 249665 v1 08039-00159